

JN:ADW  
F. #2020R00345

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
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UNITED STATES OF AMERICA

- against -

KEVIN JAY LIPSITZ,

Defendant.

I N D I C T M E N T

**1:20-cr-00394 (KAM)(RER)**

Cr. No. \_\_\_\_\_  
(T. 18, U.S.C., §§ 981(a)(1)(C), 1341,  
1343 and 3551 et seq.; T. 21, U.S.C.,  
§ 853(p); T. 28, U.S.C., § 2461(c);  
T. 50, U.S.C., §§ 4512 and 4513)

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THE GRAND JURY CHARGES:

COUNTS ONE THROUGH THREE  
(Wire Fraud)

1. On or about the dates identified in the table below, within the Eastern District of New York and elsewhere, the defendant KEVIN JAY LIPSITZ did knowingly and intentionally devise a scheme and artifice to defraud one or more customers in the marketing and sale of personal protective equipment ("PPE"), and to obtain money and property from them by means of one or more materially false and fraudulent pretenses, representations and promises and, for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted, by means of wire communication in interstate commerce, one or more writings, signs, signals, pictures and sounds, as set forth below:

<u>Count</u>	<u>Approximate Date of Wire Transmission</u>	<u>Description of Wire Transmission</u>
ONE	March 24, 2020	Email sent by or caused to be sent by LIPSITZ, while located in the Eastern District of New York, to a customer, located in Tennessee, in which LIPSITZ stated, among other things: "[s]ent you a tracking number yesterday, but that will change after your items are all boxed up and ready to go ...your order is right on my desk and the second this new shipment comes in, yours are going out."
TWO	March 31, 2020	Email sent by or caused to be sent by LIPSITZ, while located in the Eastern District of New York, to a customer, located in New Jersey, in which LIPSITZ stated, among other things: "[h]ere are the four tracking numbers, please ignore the usps one, all are going via Fedex [ . . . ] [w]e are getting an extra 250,000 masks next week, so we will have plenty if your friends would like to order."
THREE	April 10, 2020	Email sent by or caused to be sent by LIPSITZ, while located in the Eastern District of New York, to a customer, located in New Jersey, in which LIPSITZ provided tracking information for certain items being shipped via a private and commercial interstate carrier.

(Title 18, United States Code, Sections 1343 and 3551 et seq.)

COUNTS FOUR AND FIVE  
(Mail Fraud)

2. On or about the dates identified in the table below, within the Eastern District of New York and elsewhere, the defendant KEVIN JAY LIPSITZ did knowingly and intentionally devise a scheme and artifice to defraud one or more customers in the marketing and sale of PPE, and to obtain money and property from them by means of one or more materially false and fraudulent pretenses, representations and promises, and, for the purpose of executing such scheme and artifice, did place and cause to be placed one or more matters and things in a post office and authorized depository for mail matter, to be sent and delivered

by the United States Postal Service, and did deposit and cause to be deposited one or more matters and things to be sent and delivered by private and commercial interstate carrier, and did take and receive therefrom such matters and things, as set forth below:

<u>Count</u>	<u>Approximate Date of Mailing</u>	<u>Description of Mailing</u>
FOUR	April 9, 2020	Shipment using United States Postal Service from Staten Island, New York to Nashville, Tennessee of three-ply surgical masks.
FIVE	April 10, 2020	Shipment using Federal Express from Staten Island, New York to Hainesport, New Jersey of three-ply surgical masks.

(Title 18, United States Code, Sections 1341 and 3551 et seq.)

COUNT SIX

(Unlawful Accumulation of Designated Scarce Materials)

3. On or about and between March 25, 2020 and May 31, 2020, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant KEVIN JAY LIPSITZ did knowingly and willfully accumulate, for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President of the United States as scarce materials or materials the supply of which would be threatened by such accumulation, to wit: certain PPE, including N95 Filtering Facepiece Respirators, KN95 Filtering Facepiece Respirators and PPE surgical masks.

(Title 50, United States Code, Sections 4512 and 4513; Title 18, United States Code, Sections 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION  
AS TO COUNTS ONE THROUGH FIVE

4. The United States hereby gives notice to the defendant that, upon his conviction of the offenses charged in Counts One through Five, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted such offenses to forfeit any property, real or personal, constituting or derived from proceeds obtained directly or indirectly as a result of such offenses.

5. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been comingled with other property which cannot be divided without difficulty;

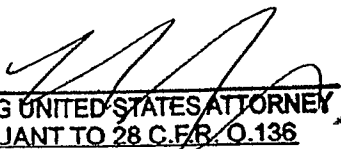
it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

A TRUE BILL

  
FOREPERSON

\_\_\_\_\_  
SETH D. DUCHARME  
ACTING UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

BY:   
ACTING UNITED STATES ATTORNEY,  
PURSUANT TO 28 C.F.R. O.136

F.#: 2020R00345  
FORM DBD-34  
JUN. 85

No. \_\_\_\_\_

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UNITED STATES DISTRICT COURT

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

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THE UNITED STATES OF AMERICA

vs.

KEVIN JAY LIPSITZ,

Defendant.

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INDICTMENT

(T. 18, U.S.C., §§ 981(a)(1)(C), 1341, 1343 and 3551 et seq.; T. 21,  
U.S.C., § 853(p); T. 28, U.S.C., § 2461(c); T. 50, U.S.C. §§ 4512 and  
4513)

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*A true bill.*

*Richard J. Sullivan*

Foreperson

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Filed in open court this \_\_\_\_\_ day.

of \_\_\_\_\_ A.D. 20 \_\_\_\_\_

Clerk

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Bail, \$ \_\_\_\_\_

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*Andrew Wang, Assistant U.S. Attorney (718) 254-6311*